

SECTION E – OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION/MONTANA UNIVERSITY SYSTEM

Figure 1

5102 Commissioner Of Higher Education Legislative Budget Comparison Table						All Programs		
Federal Stimulus Budget Version Budget Item	Base FY 2008	Approp FY 2009	Budgeted FY 2010	Budgeted FY 2011	Biennium FY 2008-09	Biennium FY 2010-11	Biennial Change	Biennial Percent
Operating Expenses	-	-	1,000,000	1,000,000	-	2,000,000	2,000,000	0.0%
Local Assistance	-	-	606,189	671,586	-	1,277,775	1,277,775	0.0%
Grants	-	-	450,000	450,000	-	900,000	900,000	0.0%
Transfers	-	-	49,076,457	50,074,019	-	99,150,476	99,150,476	0.0%
Total Costs	-	-	51,132,646	52,195,605	-	103,328,251	103,328,251	0.0%
General Fund	-	-	-	-	-	-	-	0.0%
Federal Spec. Rev. Funds	-	-	51,132,646	52,195,605	-	103,328,251	103,328,251	0.0%
Total Funds	-	-	51,132,646	52,195,605	-	103,328,251	103,328,251	0.0%

Agency Narrative

HB 645 adds \$103.3 million of federal authority to the Office of the Commissioner of Higher Education/Montana University System (OCHE/MUS) needed to spend state fiscal stabilization funds from the American Recovery and Reinvestment Act of 2009 (ARRA). Language in HB 645 removes \$89.2 million general fund from the 2011 biennium base budget of the MUS educational units in HB 2. Overall, the bill provides a net \$14.1 million increase in total funds for the education and general expenditures of the Montana University System and the community colleges, and other programs in the Office of the Commissioner of Higher Education.

Purpose of Funds

The State Fiscal Stabilization Fund (SFSF) is included in Title XIV of the ARRA. The purpose of the SFSF is to help stabilize state and local government budgets in order to minimize and avoid reductions in education and other essential public services. The federal intent of the SFSF was to help ensure that local education agencies and publicly funded institutions of higher education have the resources to avoid reductions and retain teachers and professors. The fund was also intended to provide governors with resources to support public safety and other government services.

Statutory Changes

HB 645 amends 17-7-102, MCA to include the general fund and state special revenue funds that were reduced in HB 2 by language in HB 645 in the base budget for the biennium beginning July 1, 2011. This statutory change holds the Montana University System 2013 biennium budget harmless from the approximate \$45 million annual general fund/federal fund swap included in HB 645 in the 2011 biennium.

Conditions and Limitations

The total amount of funding in the SFSF that is allocated to Montana is \$148,689,793. The SFSF is split into two funds:

1. The Education Fund, which is allocated 81.8 percent of the \$148.7 million, or \$121.6 million, and must be spent on education (K-12 or higher education)
 - a. Section 39, Section E of HB 645 allocates \$103.3 million of the \$121.6 million to the MUS for education and general expenditures
 - b. Section 39, Section F of HB 645 allocates the remaining \$18.3 million of the \$121.6 million to the MUS for renovation and repair of higher education facilities
2. The Other Government Services Fund, which is allocated 18.2 percent of the \$148.7 million, or \$26.8 million, and may be spent for public safety and other government services, which may include education. Section 39 of HB 645 allocates the \$26.8 million as follows:
 - a. Section A allocates \$1.6 million for Tribal economic development and \$8.0 million for new worker training (Department of Commerce)
 - b. Section B allocates \$2.0 million for county health grants for asbestos (Department of Public Health and Human Services)
 - c. Section F allocates \$15.5 million for state facilities infrastructure renovation and repair (Long Range Building Program)

The Governor must make application for these funds. As part of its application, the Governor must provide five assurances. These assurances are related primarily to K-12 and are listed in the Office of Public Instruction narrative. However, one of those assurances, maintenance of effort, applies to the Montana University System as well as K-12.

The ARRA specifies that higher education institutions that receive SFSF funds shall use the funds for education and general expenditures (general operating budget), and in such a way as to mitigate the need to raise tuition and fees for in-state students; or for modernization, renovation, or repair of higher education facilities. Funds awarded to institutions of higher education may not be used for maintenance, for athletics or other public facilities, or to increase its endowment.

The ARRA requires that states receiving stabilization funds report the following annually to the U.S. Department of Education:

1. How the funds were used within the state
2. The distribution of funds received
3. The number of jobs saved or created
4. Tax increases averted
5. The state's progress in
 - a. reducing inequities in the distribution of highly-qualified teachers
 - b. developing a longitudinal data system
 - c. implementing valid assessments
6. Actions taken to limit tuition and fee increases at public institutions of higher education
7. The extent to which public institutions of higher education maintained, increased, or decreased enrollments of in-state students

SECTION E – OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION/MONTANA UNIVERSITY SYSTEM

Figure 2

5102 Commissioner Of Higher Education				All Programs		
Legislative Budget	General Fund	General Fund	General Fund	Total Funds	Total Funds	Total Funds
Decision Package	FY 2010	FY 2011	FY 2010-11	FY 2010	FY 2011	FY 2010-11
<i>Federal Stimulus New Proposal Decision Packages</i>						
NP00101 Maintain Support for Higher Education	-	-	-	44,076,457	45,074,019	89,150,476
NP00102 Tuition Mitigation for Resident Students	-	-	-	5,000,000	5,000,000	10,000,000
NP00108 Distance Learning & Integrated Enrollment	-	-	-	1,000,000	1,000,000	2,000,000
NP00110 Reinstate Dec. 15th Community College funding	-	-	-	606,189	671,586	1,277,775
NP00111 Reinstate Tribal Assistance Funding	-	-	-	450,000	450,000	900,000
New Proposal Total	-	-	-	51,132,646	52,195,605	103,328,251
Total All Decision Packages	-	-	-	51,132,646	52,195,605	103,328,251

Decision Package Narrative

NP 101 – Maintain Support for Higher Education – The bill adds \$44.1 million and \$45.1 million of SFSF funds in FY 2010 and FY 2011, respectively, to the Appropriation Distribution Program (MUS educational units) in the Office of the Commissioner of Higher Education. The bill also includes language that reduces general fund in the Appropriation Distribution Program (MUS educational units) in HB 2 by a like amount. The impact of this decision package and the related language is a one-time funding switch of federal stimulus funds for a like amount of state general fund for the 2011 biennium. There is no expenditure increase or decrease in this funding switch.

NP 102 – Tuition Mitigation for Resident Students – This bill adds \$10.0 million of one-time-only SFSF funds in the 2011 biennium for resident student tuition mitigation at the Montana University System and the community colleges. There is language in the bill that conditions the appropriation by making the appropriation contingent upon no tuition increases at any MUS educational units or the community colleges.

NP 108 – Distance Learning & Integrated Enrollment – This bill adds \$1.0 million of one-time-only SFSF funds in each year of the 2011 biennium for a new initiative addressing access and affordability of two year colleges, the Distance Learning & Integrated Enrollment project. The funding would be used to centralize distance offerings courses into a single, unified, web-based student enrollment system for admissions and financial assistance and to coordinate with the State Superintendent of Public Instruction to create at least five early college degree programs in a Montana Big Sky Career Pathway for high school students to have access to college courses to achieve a high school diploma and associates degree in five years.

NP 110 – Reinstate Dec. 15th Community College Funding – This bill adds \$1.3 million of one-time-only SFSF funds to the Community Colleges that would reinstate the level of funding recommended in the Governor's December 15th executive budget.

NP 111 – Reinstate Tribal Assistance Funding – The bill adds \$900,000 of one-time-only SFSF funding for the Tribal College Assistance Program for non-beneficiary students.

Alternatives and Policy Options

Although HB 645 includes an additional \$10.0 million from the SFSF in the 2011 biennium for resident student tuition mitigation at the higher education institutions, and language makes the \$10.0 million contingent upon no tuition increase in the 2011 biennium, the amount of funding contained in HB 645 and HB 2 may be insufficient to continue the College Affordability Plan (CAP) at the MUS educational units and implement a CAP at the community colleges. The figure below presents an estimate of the amount needed for a CAP program at the higher education institutions in the 2011 biennium compared to the funding currently available in HB 2 and proposed in HB 645. As shown in the figure, the estimated funding gap to continue the CAP at the MUS educational units and implement a CAP at the community colleges is approximately \$16.0 million for the 2011 biennium.

Several assumptions were used in the calculation of this estimate; these are noted at the bottom of the figure below. Changing the assumptions will impact the calculation of the estimated funding gap.

Estimated Funding Gap for College Affordability Plan in 2011 Biennium Montana University System and Community Colleges			
Item	MUS Ed Units	CC	Total
<u>State Funding Needed for CAP in 2011 Biennium</u>			
Dec 15 Executive Budget	\$308,168,253	\$18,738,712	\$326,906,965
Additional Needed for CAP (see note 3,4, & 6)	20,635,049	1,009,047	21,644,096
Total Needed for CAP	\$328,803,302	\$19,747,759	\$348,551,061
Legislative Appropriations			
HB 2 - Current Legislative Appropriation	\$303,857,736	\$17,460,937	\$321,318,673
HB 645 - Proposed Appropriation CC	0	1,277,775	1,277,775
HB 645 - Proposed Appropriation Tuition Mitigation	8,990,953	1,009,047	10,000,000
Total Legislative Appropriations	<u>\$312,848,689</u>	<u>\$19,747,759</u>	<u>\$332,596,448</u>
Funding Gap	<u>(\$15,954,613)</u>	<u>\$0</u>	<u>(\$15,954,613)</u>
<u>The above table reflects the following:</u>			
1. Excludes Costs/funding for pay plan			
2. Cost estimates based upon assumptions used in OBPP/MUS Technical Work Group, Fall 2008			
3. Add'l needed for CAP at MUS uses State Percent Share at 85 percent, based upon resident & WUE student enrollment			
4. Add'l needed for CAP at CC's is CC estimate and is not verified			
5. Proposed tuition mitigation allocated to CCs first			
6. Excludes any expenditure reduction that may be considered by Board of Regents or CC Local Boards			

Section E – Office of Public Instruction

Figure 1

3501 Office Of Public Instruction Legislative Budget Comparison Table							All Programs	
Federal Stimulus Budget Version Budget Item	Base FY 2008	Approp FY 2009	Budgeted FY 2010	Budgeted FY 2011	Biennium FY 2008-09	Biennium FY 2010-11	Biennial Change	Biennial Percent
Personal Services	-	-	-	-	-	-	-	0.0%
Operating Expenses	-	-	1,864,434	-	-	1,864,434	1,864,434	0.0%
Local Assistance	-	-	83,798,405	-	-	83,798,405	83,798,405	0.0%
Total Costs	-	-	85,662,839	-	-	85,662,839	85,662,839	0.0%
General Fund	-	-	-	-	-	-	-	0.0%
Federal Spec. Rev. Funds	-	-	85,662,839	-	-	85,662,839	85,662,839	0.0%
Total Funds	-	-	85,662,839	-	-	85,662,839	85,662,839	0.0%

Agency Narrative

The Office of Public Instruction (OPI) receives federal appropriations of \$85.7 million to support services to at-risk or disadvantaged students and special education services for children identified as having a disability which requires educational accommodations to assist in the child's learning.

Purpose of Funds

According to the federal Department of Education, included in the American Recovery and Reinvestment Act of 2009 (ARRA) are funds that should be used to improve student achievement, close the achievement gap, help students from various backgrounds achieve high standards, and address four specific areas:

- 1) Making progress toward rigorous college and career-ready standards and high-quality assessments that are valid and reliable for all students, including English language learners and students with disabilities
- 2) Establishing pre-K to college and career data systems that track progress and foster continuous improvement
- 3) Making improvements in teacher effectiveness and in the equitable distribution of qualified teachers for all students, particularly students who are most in need
- 4) Providing intensive support and effective interventions for the lowest-performing schools

The Department of Education recommends the funds be used to make short-term investments with the potential for long-term benefits, rather than making ongoing commitments that are not sustainable once the recovery funds are expended. Included in examples of allowable uses of recovery funds are:

1. Establish a system for identifying and training highly effective teachers to serve as instructional leaders in Title I school-wide programs and modify the school schedule to allow for collaboration among the instructional staff
2. Establish an intensive, year-long teacher training for all teachers and the principal in Title I elementary schools in restructuring status in order to train teachers to use new reading curriculum that aggressively works on improving students' oral language skills and vocabulary
3. Provide new opportunities for Title I school-wide programs for secondary school students to use high-quality online courseware as supplemental learning materials for meeting mathematic and science requirements



4. Use longitudinal data systems to drive continuous improvement efforts focused on improvement to Title I schools
5. Provide professional development to teachers in Title I schools targeted assistance programs
6. Use reading or mathematics coaches to provide professional development to teachers in Title I targeted assistance programs
7. Establish fiscally sustainable extended learning opportunities for Title I-A eligible students in targeted assistance programs, including activities provided before school, after school, during the summer, or over an extended school year.

Statutory Changes

HB 645 does not contain any specific statutory changes for OPI or school funding formulas related to K-12 public education.

Conditions and Limitations

In the bill enhanced federal appropriations of \$34.65 million for Title I, Part A programs are included for at-risk students. Approximately \$17.325 million of the funds will be released by the federal Department of Education to Montana without application before the end of March 2009. The remaining \$17.325 million will be made available between July 1 and September 30, 2009 if Montana submits an approvable application for the Title I funds.

The state is required by the Department of Education to reserve 4 percent or \$1.386 million of Title I, Part A funds for school improvement activities. At least 95 percent of the funds reserved for school improvements must be allocated to local school districts.

With prior approval from the Secretary of Education, Montana local school districts can include any funds they receive from the State Fiscal Stabilization Fund (SFSF) for the purposes of determining maintenance of effort requirements for the Title I, Part A funds contained in this bill. However, because the bill does not contain SFSF funds for distribution by OPI this option is not available to local school districts. Maintenance of effort requirements for Title I, Part A require that local school districts spend not less than 90 percent from state and local sources when comparing the two previous fiscal years. Local school districts must use the funds to supplement their efforts not to supplant state or local funds. Districts must also meet comparability requirements under the Title I, Part A.

73 percent of local school districts currently receive Title I, Part A funds which are distributed based on four separate formulas. The enhanced federal appropriations are to be distributed based on two of the four formulas. Currently 67 percent of districts receive two of the four formula grants – targeted and incentive grants.

The bill includes \$35.5 million in enhanced federal appropriations for IDEA, Part B programs. IDEA funds support services to students with a disability. The Department of Education will also release \$17.75 million in IDEA, Part B funds to Montana without requiring an application before the end of March 2009. The remaining \$17.325 million will be made available before October 1, 2009 if Montana submits an approvable application for the IDEA funds.

IDEA, Part B funds are available only for the excess costs of providing special education and related services to children with disabilities. Local school districts may reduce the level of state and local expenditures by up to 50 percent of the additional federal funds they receive through the IDEA, Part B program as long as the freed-up funds are used for activities supported under the Elementary and Secondary Education Act. The Department of Education recommends local school districts use the freed up local funds to make progress on the goals of the SFSF and requires states to report on the uses of the freed up funds.



With prior approval from the Secretary of Education, Montana local school districts can include any funds they receive from the State Fiscal Stabilization Fund (SFSF) for the purposes of determining maintenance of effort requirements for the IDEA, Part B funds contained in this bill. However, because the bill does not contain SFSF funds for distribution by OPI this option is not available to local school districts. Supplement not supplant requirements for IDEA, Part B funds require local school districts to maintain their funding levels for general education and not use IDEA, Part B funds to replace general education funds.

\$1.26 million of IDEA, Part B funds for preschoolers with disabilities ages 3 to 5 are included in the bill. The funds are subject to the same requirements as IDEA, Part B funds for school age children.

OPI also receives additional enhanced federal appropriations for Title I-School Improvement Grants of \$8.56 million in HB 645. Title I School Improvement Grants will be allocated to Montana before October 1, 2009 provided Montana submits an approvable application for the federal funds. School Improvement Grants are to be granted to local school districts in an amount of not less than \$50,000 per eligible school district. In Montana, school districts would be eligible to receive School Improvement Grants if they had failed to make adequate yearly progress under No Child Left Behind for 5 years. As of February 2009, 40 school districts would meet the requirements for the funds. Additional schools could qualify if OPI requests a change in its Elementary and Secondary Education Act (ESEA) plan as part of its application to the federal Department of Education for the remaining federal Title I-A funds.

Title II-D education technology of \$3.049 million are included in the bill. The enhanced federal appropriations are dedicated to incorporation of technology into the classrooms. These funds will also be allocated to Montana before October 1, 2009 conditioned on an approvable application. Funds must be used in accordance with the ESEA requirements and have MOE and supplement not supplant requirements.

The bill contains school nutrition appropriations of \$247,461. Funds are distributed to OPI. Local school districts can apply for competitive grants for equipment purchases to update or enhance school meal programs. Further guidance on the distribution of the grants should be forthcoming.

McKinney-Vento homeless assistance funds of \$224,000 are included in the bill. The funds are to be distributed based on applications from local school districts with homeless children attending their schools. Currently, Missoula, Helena, and Billings receive the funds. Eligible expenditures include transportation, school supplies, clothing, and salary and benefits for a school liaison to work with the homeless students.

Figure 2

3501 Office Of Public Instruction				All Programs		
Legislative Budget Decision Package	General Fund FY 2010	General Fund FY 2011	General Fund FY 2010-11	Total Funds FY 2010	Total Funds FY 2011	Total Funds FY 2010-11
<i>Federal Stimulus New Proposal Decision Packages</i>						
NP00500 Fed Stim School Nutrition - Equipment	-	-	-	247,461	-	247,461
NP00501 Fed Stim Title I-A	-	-	-	34,650,000	-	34,650,000
NP00502 Fed Stim IDEA Part-B (Sect 611)	-	-	-	35,472,241	-	35,472,241
NP00503 Fed Stim Title II-D Ed Technology	-	-	-	3,048,906	-	3,048,906
NP00504 Fed Stim IDEA Part-B (Sect 611) Admin	-	-	-	1,235,815	-	1,235,815
NP00505 Fed Stim Education Technology Admin	-	-	-	160,469	-	160,469
NP00506 Fed Stim Title I-A Improvement Admin	-	-	-	468,150	-	468,150
NP00507 Fed Stim Title I-A Improvement	-	-	-	8,894,850	-	8,894,850
NP00508 Fed Stim IDEA Part-B (Sect 619 Pre-Schl)	-	-	-	1,260,947	-	1,260,947
NP00509 Fed Stim McKinney-Vento (Homeless Assist)	-	-	-	224,000	-	224,000
New Proposal Total	-	-	-	85,662,839	-	85,662,839
Total All Decision Packages	-	-	-	85,662,839	-	85,662,839

Decision Package Narrative

DP00500 Fed Stim School Nutrition – Equipment – The legislature included \$247,461 in federal appropriations for grants to schools to purchase equipment for meal programs.

DP 00501 Fed Stim Title I – A – School districts receiving Title I- 1 funds in FY 2008 under the targeted and EFIG component of Title I- A are eligible to receive enhanced federal appropriations of \$34.65 million. These are included in HB 645.

DP00502 Fed Stim IDEA Part B (Sect. 611) – \$33.5 million in federal funding is provided to support services to school age children with disabilities.

DP00503 Fed Stim Title II – D Ed Technology – The legislation provides \$3.048 million in funds to incorporate technology into the classroom.

DP00504 Fed Stim IDEA Part-B (Sect 611) Admin - Administrative costs of \$1.2 million in federal funds IDEA Part B are provided.

DP00505 Fed Stim Education Technology Admin - Administrative costs of \$160,469 for the education technology funds are included in the bill.

DP00506 Fed Stim Title I A Improvement Admin - Administrative costs of \$468,150 related to Title I-A School Improvement funds are provided.

DP00507 Fed Stim Title I – A Improvement - \$8.894 million in federal funds are provided in the bill for schools who have not made adequately yearly progress under No Child Left Behind in the last 5 years. Montana e school districts are eligible to receive grants of \$50,000 each under ARRA.

DP00508 Fed Stim IDEA Part B (Sect 619 Pre-Schl) Funding to support pre-school programs for children with disabilities ages 3 to 5 is included in the bill.

DP00509 Fed Stim McKinney-Vento (Homeless Act) The legislation includes \$224,000 in federal funds to provide additional support for services to homeless school children. Montana currently has three cities with identified populations of homeless children, Helena, Missoula, and Billings.

Alternatives and Policy Options

The ARRA includes State Fiscal Stabilization Funds (SFSF) for elementary and secondary funding as well as support for higher education. 81.8 percent of the funds or \$121.6 million are allocated to Montana. In order to receive the funds Montana must maintain 2006 funding levels for both elementary and secondary education and higher education. The funds can then be used to allow existing state formula increases needed to restore state support to the higher of FY 2008 or FY 2009 for either educational system. In Montana, FY 2009 was the higher of the two years in relation to funding local school districts. If the funds needed to restore public education and higher education to FY 2008 or FY 2009 are not sufficient, the funds are to be prorated between the two educational systems. Currently HB 645 directs the entire \$121.6 million of SFSF funds to the Montana University System.

HB 645 does not contain any funding to restore elementary or secondary education to FY 2009 levels. HB 2 as adopted by the House Appropriations Committee contains two reductions to FY 2009 elementary and secondary funding formula levels:

- 1) \$5.0 million general fund each year of the 2011 biennium was reduced from the at-risk component of the school funding formula. At-risk is distributed to local school districts based on the amount of Title-I A funding the school receives
- 2) \$2.5 million general fund support over the biennium for IDEA Part B maintenance of FY 2009 effort. This funding would have ensured Montana continued to receive FY 2009 level of IDEA, Part B funds from the Department of Education

Under ARRA, the legislature could use \$12.5 million of the SFSF to restore the at-risk component and maintenance of effort for IDEA to FY 2009 levels. It should be pointed out that will these funding components were reduced the total level of state funding for public education is higher in FY 2010 and FY 2011 than in FY 2009. Redirection of the amount of education funds received from the SFSF would require an equal reduction in the funding for higher education.

The ARRA includes specific goals in relation to the expenditure of education appropriations and requires the state to report on the attainment of the goals. The legislature may wish to consider including these goals as part of the state's plan for the use of the appropriations and request measurable objectives, milestones, timelines, and expected outcomes to be used in determining OPI's and the local school districts successes with the goals. The Legislative Finance Committee meets regularly with state agency to discuss goals and performance measurements. The legislature may wish to require OPI to report on its progress on the goals to the Legislative Finance Committee workgroup on education.

Included in the ARRA is a requirement that OPI set aside 4 percent of Title I, Part A for school improvement activities. The legislature may wish to restrict 4 percent of the Title I, Part A appropriation to OPI to school improvement activities. The legislature may also wish to require that OPI establish goals, measurable objectives, milestones, timelines, and expected outcomes for the school improvement activities and report these to the Legislative Finance Committee workgroup that reviews goals and measurable objectives related to House Bill 2 appropriations during the interim.

The legislature may wish to request that OPI include reports on the amount of freed up local funds each school district generates from the additional receipt of IDEA, Part B, any reduction in local or state support that resulted in future periods from the decrease in the maintenance of effort required for IDEA, Part B, the uses of the freed up funds, and the results of expending the funds on one-time expenditures to the Legislative Finance Committee workgroups that review goals and measurable objectives related to House Bill 2 appropriations during the interim.



This would allow the workgroup to determine the impact of the freed up funds on maintenance of effort requirements for IDEA, Part B in the ongoing biennia and consider the ramifications to the local school district general fund budget.

Additional schools may be eligible to receive Title I –A School Improvement grants of \$50,000 if Montana changes its eligibility requirements in its submission for the Title I-A funds. The legislature may wish a report from OPI on the changes to eligibility for Title I –A School Improvement requirements, the number of additional schools eligible if the changes are made and the ongoing results of changing the eligibility requirements.